

AMENDED IN ASSEMBLY MARCH 27, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1005

Introduced by Assembly Member Maze

February 22, 2007

~~An act relating to land acquisition by public entities. An act to add Section 24949.6 to the Revenue and Taxation Code, relating to taxation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1005, as amended, Maze. ~~Public entities: land acquisitions. Corporation taxes: involuntary conversions.~~

The Corporation Tax Law provides that if property is compulsorily or involuntarily converted, as specified, no gain shall be recognized as a taxable gain if the conversion property is similar to the original property, as provided.

This bill would provide that if a taxpayer elects nonrecognition and the election is based upon any instrument, as specified, from specified governmental entities, the instrument shall be approved by the secretary or director of the governmental entities, as provided.

~~Existing law permits public entities to acquire land without invoking the power of eminent domain.~~

~~This bill would state the intent of the Legislature to enact legislation to require a public entity that has agreed to provide a letter of friendly condemnation pursuant to a land transaction in which the entity does not invoke eminent domain to provide the letter within a reasonable time. The bill would also make a statement of legislative findings.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 24949.6 is added to the Revenue and*
2 *Taxation Code, to read:*

3 24949.6. *For purposes of Sections 24943 to 24946, inclusive,*
4 *if a taxpayer elects to exempt from recognition any gain pursuant*
5 *to Section 1033 of the Internal Revenue Code and that election is*
6 *based upon any instrument, either written or electronic, from a*
7 *state agency, department, board, or commission, the instrument*
8 *shall be approved by either of the following:*

9 (a) *The secretary of the agency issuing the instrument.*

10 (b) *The director of the department, board, or commission issuing*
11 *the instrument and also by the secretary of the agency that has*
12 *jurisdiction over the issuing department, board, or commission.*

13 ~~SECTION 1. (a) The Legislature finds and declares the~~
14 ~~following:~~

15 ~~(1) Public entities frequently acquire land in transactions that~~
16 ~~do not invoke the adversarial proceedings of eminent domain.~~

17 ~~(2) When a public entity acquires land without invoking eminent~~
18 ~~domain for a price less than what the land is worth, the entity will~~
19 ~~sometimes agree to provide what is referred to as a letter of friendly~~
20 ~~condemnation, which the former landowner may use to obtain~~
21 ~~favorable tax treatment.~~

22 ~~(3) Public entities have agreed to provide letters of friendly~~
23 ~~condemnation and have failed to do so.~~

24 ~~(b) It is the intent of the Legislature to enact legislation to require~~
25 ~~a public entity that has agreed to provide a letter of friendly~~
26 ~~condemnation pursuant to a land transaction in which the entity~~
27 ~~does not invoke eminent domain to provide the letter within a~~
28 ~~reasonable time.~~